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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,973	08/29/2000	Norbert George Vogl	YOR920000532US1	9168

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EXAMINER

BAROT, BHARAT

ART UNIT PAPER NUMBER

2155

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/649,973

Applicant(s)

VOGL ET AL.

Examiner

Bharat N. Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

RESPONSE TO APPEAL BRIEF

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. Claims 1-19 remain for further examination. Applicants' arguments with respect to claims 1-19 filed on November 30, 2005 have been fully considered.

The new grounds of rejection

3. Applicants' arguments with respect to claims 1-19 filed on November 30, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
5. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2155

Claims 1, 3, and 16 recite the limitation "start time and end time" which are unclear about the time period and also unclear about the start time and end time related to one or more steps of the method which makes claims 1-19 indefinite.

Other dependent claims, which are not specifically cited above are also rejected because of the deficiencies of their respective parent claims.

Claim Rejections - 35 USC § 103(a)

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-11 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takamoto et al (U.S. Patent No. 5,903,724) in view of Crisler et al (U.S. Patent No. 5,515,379).

8. As to claim 1, Takamoto et al teach a method of doing business over a network (see abstract; and figures 1-2) comprising the steps of: receiving a request for transmitting digital information, the digital information having a number of packets; determining the time required to transmit the digital information; scheduling a transmit time for the digital information; and accepting the digital information for transmission (figures 2, 9, and 15-17; column 6 line 65 to column 7 line 10; column 8 lines 13-36; and column 11 line 22 to column 12 line 54).

However, Takamoto et al do not teach the steps of: receiving, determining, scheduling, and accepting with specific conditions.

Crisler et al teach a method of doing business over a network (see abstract; figure 1; and column 2 line 50 to column 3 line 49) comprising the steps of: receiving a request for transmitting digital information after a start time and before an end time (available time slot), the digital information having a number of packets (figures 2-3; column 3 line 50 to column 4 line 28; and column 5 lines 8-55); determining the time required to transmit the digital information based on the number of packets and a network speed; scheduling a transmit time for the digital information (figures 2-3; column 4 lines 29-57; and column 5 line 44 to column 6 line 7); and accepting the digital information for transmission only if the time required to transmit is less than or equal to the difference between the transmit time and the end time (N-time slots presently available) (figures 2-3; column 4 line 29 to column 5 line 7; and column 6 lines 8-27).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Crisler et al stated above in the method of Takamoto et al for doing business over a network as stated above because it would have optimized network performance and increased system efficiency by scheduling a transmit time for the digital information.

9. As to claims 2-3, Crisler et al disclose that the digital information is transmitted at a first price or the digital information is rejected for transmission if the time required to transmit is more than the difference between the transmit time and the end time (figures 2-3; column 4 lines 29-57; and column 5 lines 44-55).

10. As to claims 4-5; Takamoto et al disclose that the digital information is accepted for transmission at a second price; and the digital information is rescheduled by the scheduler and accepted for transmission at a second price after the information is rejected (figures 18-20; and column 12 line 55 to column 14 line 10).

11. As to claims 6-7, Takamoto et al disclose that receives an acknowledgment of the transmission (see summary of the invention; figures 2-3; and column 7 lines 10-63).

However, Takamoto et al do not disclose that produces a bill on receipt of the acknowledgment, but it would have been obvious and known to one of ordinary skill in the art at the time the invention was made to produces a bill on receipt of the acknowledgment (after providing a service) because it would have improved system management to determine the cost of network usage.

12. As to claims 8-10, Takamoto et al disclose that one or more portions of the digital information are accepted for transmission and are transmitted; and receives an acknowledgment of the transmission of one or more of the portions (see summary of the invention; figures 2-3; and column 7 lines 10-63).

However, Takamoto et al do not disclose that produces a bill on receipt of the acknowledgment for one or more of the portions, but it would have been obvious and known to one of ordinary skill in the art at the time the invention was made to produces a bill on receipt of the acknowledgment for one or more of the portions (after providing a service) because it would have improved system management to determine the cost of network usage.

13. As to claim 11, Takamoto et al disclose that one or more portions of the digital information are initially rejected and then accepted for transmission at one or more second times and at one or more second prices (figures 18-20; and column 12 line 55 to column 14 line 10).

14. As to claim 16, Crisler et al disclose that the digital information is scheduled from one or more retransmissions if the time required to transmit is more than the difference between the transmit time and the end time (figures 2-3; column 4 line 29 to column 5 line 7; and column 6 lines 8-27).

15. As to claim 17, Takamoto et al disclose that the digital information is scheduled from one or more retransmissions if no acknowledgment of the transmission of the digital information is received (figures 18-20; and column 12 line 55 to column 14 line 10).

Art Unit: 2155

16. As to claims 18-19, Crisler et al disclose that the digital information is also not transmitted if one or more criteria are not met, where the criteria include any one or more of the following: a file size, a release time, a deadline, zero or more recipients, zero or more user locations, an acknowledgment, a negative acknowledgment, a partial acknowledgment, a bandwidth, a quality of service, a retransmission count, and a retransmission schedule (figures 2-3; column 4 line 29 to column 5 line 7; and column 6 lines 8-27).

17. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takamoto et al (U.S. Patent No. 5,903,724) in view of Crisler et al (U.S. Patent No. 5,515,379) as applied to claim 1 above, and further in view of Duquesnois et al (U.S. Patent No. 6,564,382).

18. As to claims 12-13, neither Takamoto et al nor Crisler et al discloses that the request has one or more priorities; the priority is that the digital information is transmitted within a time period.

Duquesnois et al disclose that the request has one or more priorities; the priority is that the digital information is transmitted within a time period (see abstract; column 2 lines 1-14 and 38-59; column 4 lines 44-52; and column 8 lines 5-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Duquesnois et al stated above in the method of Takamoto et al for doing business over a network as stated above because it would have increased over all system efficiency and performance.

19. As to claims 14-15, Duquesnois et al disclose that the time period in any one or more of the following: over night, two days, and one week, and the priority is a freight priority that requires the digital information to be transmitted within a freight time period with no acknowledgments (see abstract; column 2 lines 1-14 and 38-59; column 4 lines 44-52; and column 8 lines 5-21).

Response to Arguments

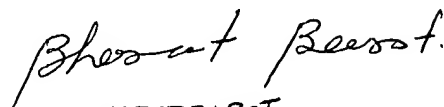
20. Applicant's arguments have been fully considered. The examiner has attempted to answer (response) to the remarks (arguments) in the body of the Office action.

Contact Information

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

Art Unit: 2155

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

A handwritten signature in cursive script that reads "Bharat Barot".

BHARAT BAROT
PRIMARY EXAMINER

Patent Examiner Bharat Barot

Art Unit 2155

February 21, 2006